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No. 265

In the Supreme Court of the United States

OCTOBER TERM, 1935

UNITED STATES OF AMERICA, PETITIONER

v.

RAY KEITH ATKINSON

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES

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OPINIONS BELOW

The District Court for the Western District of Texas rendered no opinion. The opinion of the Circuit Court of Appeals (R. 103–106) is reported in 76 F. (2d) 564.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered March 27, 1935 (R. 106). A petition for rehearing was denied April 20, 1935 (R. 109). The petition for a writ of certiorari was filed July 20, 1935, and granted October 14, 1935 (R. 110).

The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTION PRESENTED

Whether there is any authority in law for including in contracts of United States Government life (converted) insurance against death or total permanent disability, a provision that "the permanent loss of hearing of both ears * * * shall be deemed to be total permanent disability."[1]

STATUTES AND REGULATIONS INVOLVED

The pertinent statutes and regulations are contained in the Appendix, *infra*, pp. 18–24.

STATEMENT

Ray Keith Atkinson, the respondent, brought this suit against the Government in the District Court of the United States for the Western District of Texas to recover total permanent disability benefits under a policy of Government life insurance, together with the premiums paid by him since the date of commencement of the disability alleged.

The plaintiff alleged in his first amended petition (R. 1–4), filed May 2, 1934, that on or about July

[1] While this question was not specifically raised in the trial court, it formed the basis of the decision of the Circuit Court of Appeals, as indicated at p. 6, *infra*, of the Statement, and consequently may be considered here. *Friend* v. *Talcott*, 228 U. S. 27, 36. See also *Wuchter* v. *Pizzutti*, 276 U. S. 13; *Cole* v. *Ralph*, 252 U. S. 286, 290; *Chase, Jr.*, v. *United States*, 256 U. S. 1.

1, 1927, a war-risk insurance policy in the sum of $10,000 previously issued to him by the defendant was converted upon his application into a certain form of Government life insurance which, on June 1, 1932, was renewed and converted into another form of such insurance, and that he has kept the insurance in force at all times by payment of premiums. He further alleged that by reason of loss of hearing in both ears his insurance matured on January 1, 1928, or, at the latest, at some time prior to the filing of his claim for insurance benefits on or about December 10, 1932. His claim of permanent total disability was based, in the alternative upon two distinct definitions thereof contained in separate clauses in both policies of Government life insurance which had been issued to him, to wit, paragraph 11 which defined total permanent disability as an "impairment of mind or body which continuously renders it impossible for the disabled person to follow any substantially gainful occupation, and which is founded upon conditions which render it reasonably certain that the total disability will continue throughout the life of the disabled person", and paragraph 11 (a) which provided:

> Without prejudice to any other cause of disability, *the permanent* loss of the use of both feet, or both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, *or the loss of hearing of both ears,* or becoming

> permanently helpless or permanently bedridden, shall be deemed to be total permanent disability; and monthly installments for any of these specifically enumerated causes of total permanent disability shall accrue from the date of such total permanent disability, and any premiums paid after the date of such total permanent disability shall be refunded without interest. (R. 2, 19, 60–61.) (Italics ours.)

The defendant's amended answer contained a general demurrer, a special exception on jurisdictional grounds as to a portion of the claim, and a general denial (R. 4–5). By leave of court the defendant later filed a trial amendment to its first amended answer, setting up fraud in the reinstatement in June 1921, of the original war-risk insurance, which, it was alleged, had lapsed for nonpayment of premiums upon the plaintiff's discharge from the Army. Fraud was also alleged in the conversion to Government life insurance in May 1927, of the reinstated war-risk insurance (R. 5–7).

At the trial of the case before a jury evidence was adduced that the plaintiff became, to all practical intents and purposes, totally and permanently deaf without the aid of ear phones, between January 1, 1928 and December 10, 1932 (R. 62, 65), but could understand conversation by combining the use of such phones with lip reading (R. 30). It also appeared that he was a college graduate, had taught school (R. 30–31), and was a capable

and competent architectural draftsman (R. 31, 36); that he had worked in an architect's office for many years prior to June or July 1928, at a substantial salary (R. 29), and since then has followed his profession intermittently when work was available, although handicapped by a progressive impairment in his hearing (R. 29–31, 35, 64). Except for this impairment, however, there was no indication that his health was not generally good.

At the close of all the evidence the defendant moved the court to direct a verdict in its favor upon the following grounds: (1) that there was no substantial evidence (a) of total permanent disability, within the meaning of paragraph 11 of the policy, or (b) of loss of hearing of both ears, within the meaning of paragraph 11 (a) of the policy; (2) fraud (a) in reinstatement of the war risk insurance, and (b) in the conversion of the reinstated insurance to Government life insurance (R. 81–82). The defendant excepted to the denial of this motion (R. 82) and to the rulings of the court on instructions given and requested as to the defense of fraud (R. 83–84, 89), and as to the relevancy *vel non* of the plaintiff's ability to hear with artificial aids (R. 82–83, 88–89). The trial court instructed the jury, with reference to paragraphs 11 and 11 (a) of the policy, in effect that they should render a verdict for the plaintiff and find that he was totally and permanently disabled if they found that he was either totally and permanently deaf *or* totally and permanently disabled *in fact* (R. 86–87).

The jury rendered a verdict for the plaintiff and found that he "became permanently and totally disabled December 1st, 1932" without indicating whether their finding was based upon permanent total disability in fact or merely upon his deafness without regard to its disabling effect (R. 7). From a judgment entered upon this verdict (R. 7–8) the defendant appealed to the Circuit Court of Appeals for the Fifth Circuit (R. 91–102) assigning error *inter alia* to the court's instruction to the jury that recovery might be allowed under paragraph 11 (a) of the policy which the defendant contended had been placed therein without authority of law (R. 94–95). The Circuit Court of Appeals affirmed the judgment below on the ground that paragraph 11 (a) of the policy was valid; that the decision of this Court in *Miller* v. *United States,* 294 U. S. 435, affirming the decision of that court (71 F. (2d) 361), was inapplicable; and that as the evidence justified a finding that the insured had suffered loss of hearing sufficient to justify recovery under paragraph 11 (a) of the policy,[2] it was unnecessary to determine whether there was substantial evidence of permanent total disability in fact within the meaning of the general definition thereof contained in paragraph 11 (R. 19). The Court also held that the trial court did not err in withdrawing the issue of fraud from the jury.[2]

[2] The Government does not question the correctness of the court's decision as to the sufficiency of the evidence of loss of hearing or as to the trial court's ruling in withdrawing the issue of fraud from the jury.

SPECIFICATION OF ERRORS TO BE URGED

1. The Circuit Court of Appeals erred in declaring valid the provision in paragraph 11 (a) of the Government life insurance contract that the loss of hearing of both ears shall be deemed to be total permanent disability.

2. The Circuit Court of Appeals erred in holding that the decision of this Court in *Miller* v. *United States,* 294 U. S. 435, is without application to this case.

SUMMARY OF ARGUMENT

Petitioner contends that the provision in the contract of Government life insurance against death or total permanent disability that certain forms of physical impairment (including the loss of hearing of both ears) shall be deemed to be total permanent disabilities regardless of whether or not they are such in fact, was not authorized by the statute governing such insurance and is therefore invalid.

The decision of this Court in *Miller* v. *United States, supra,* holding such a provision as to yearly renewable term insurance invalid applies, we submit, with at least equal force to Government life insurance, and the Circuit Court of Appeals erred in holding otherwise.

The general words in the statute on which the court below relies, when read in the light of their context, do not support its attempt to distinguish the *Miller* case.

Furthermore, it is manifest from other statutory provisions relating to Government life insurance

alone that Congress did not intend to authorize the policy provision in question.

Even if the statute could properly be construed as authorizing provisions for the payment of insurance benefits for specific impairments similar to those usually contained in commercial insurance policies, such a construction would nevertheless fail to justify the clause covering the loss of hearing of both ears, since clauses covering this form of impairment have not usually been included in such policies.

The trial court's charge to the jury that recovery might be allowed under the clause in question was prejudicial to the petitioner since it is to be presumed that the jury found its verdict under that clause.

ARGUMENT

In *Miller* v. *United States, supra,* this Court held (pp. 439–440) that the provisions with respect to yearly renewable term insurance contained in Article IV of the Act of October 6, 1917 (c. 105, 40 Stat. 398, 409) limited the risk to be covered in respect to total permanent disability to disabilities which are total and permanent in fact, and held invalid, as not within the authority conferred by the statute, Regulation 3140 of the Veterans' Administration, which purported to add to the disability risk by declaring that certain disabilities, including loss of hearing of both ears, shall be deemed to be

total and permanent under yearly renewable term insurance without regard to proof of that fact.[3] Although the regulation in that case is identical in language (except for the addition of another disability)[4] with paragraph 11 (a)[5] of the Government life (converted) insurance policy here in suit, and although all the statutory provisions construed in that case relate to Government life insurance as well as to yearly renewable term insurance, the court below has attempted to distinguish that case from the one at bar on the ground that paragraph 11 (a) was authorized by the general language in certain provisions of the statute which, it seems to have been assumed, applies to Government life insurance alone. It is submitted that even if the court's assumption were wholly correct, there is no basis for regarding the *Miller* case as distinguishable in principle. When the language in question is examined in the light of its context and of other statutory provisions relating to Government life insurance, it becomes even more evident than in the case of yearly renewable term insurance that Congress did not intend to authorize such additions to the disability risk as those contained in paragraph 11 (a) of the policy in question.

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[3] The clause invoked in the *Miller* case was "the permanent loss of the use of * * * one hand and one eye."

[4] Regulation 3140 added "the organic loss of speech." This clause has also been added to the Government life-insurance contract by Regulation 3122, *infra*, p. 24.

[5] *Supra*, p. 3.

The provisions containing the language relied on by the court below appear in U. S. C., Title 38, sec. 512. They are as follows (the language is represented in italics):

> * * * not later than July 2, 1927, all term yearly renewable insurance * * * shall be converted, * * * into *such form or forms of insurance as may be prescribed by regulations and as the insured may request.* Regulations shall provide for the right to convert into ordinary life, twenty-payment life, endowment maturing at age sixty-two, five-year level premium term, and into *other usual forms of insurance,* * * *.
>
> * * * * *
>
> Provisions for maturity at certain ages, for continuous installments during the life of the insured or beneficiaries, or both, for refund of premiums, cash, loan, paid-up and extended values, dividends from gains and savings, and *such other provisions for the protection and advantage of and for alternative benefits to the insured and the beneficiaries as may be found to be reasonable and practicable, may be provided for in the contract of insurance, or from time to time by regulations.* * * * (Italics ours.)

Except as to the time limited for conversion of yearly renewable term insurance, substantially the same provisions appear in Sections 402 and 404 added to the War Risk Insurance Act, 1914, by

the Act of October 6, 1917,[6] and in all subsequent legislation on the subject.[7]

This Court has held that general words which follow or precede words descriptive of particular subjects having common characteristics should be construed as limited to subjects of like kind with those described by the particular words unless there is a clear manifestation to the contrary. *United States* v. *Stever,* 222 U. S. 167, 174; *United States* v. *Salen,* 235 U. S. 237, 249; *Ginsberg & Sons* v. *Popkin,* 285 U. S. 204, 208; *United States* v. *Chase,* 135 U. S. 255, 258–259; *Neal* v. *Clark,* 95 U. S. 704, 708–709; *United States* v. *Jones,* 131 U. S. 1, 19. Applying this rule to the clauses under construction here, the general phrases, "such form or forms of insurance as may be prescribed by regulations and as the insured may request" and "other usual forms of insurance", should be construed as limited to subjects like those described by the particular phrases "ordinary life, twenty-payment life", etc., which follow and precede them, respectively, and describe several forms of life insurance.

Similarly, the general clause "such other provisions for the protection and advantage of and for

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[6] Appendix, *infra*, pp. 20–21.

[7] Acts of June 25, 1918, c. 104, sec. 21, 40 Stat. 609, 615; August 9, 1921, c. 57, sec. 24, 42 Stat. 147, 155; June 7, 1924, c. 320, sec. 301, 43 Stat. 607, 624; March 4, 1925, c. 553, sec. 13, 43 Stat. 1302, 1309; June 2, 1926, c. 449, 44 Stat. 686, 687; May 29, 1928, c. 875, sec. 14, 45 Stat. 964, 968, 969; July 3, 1930, c. 849, sec. 22, 46 Stat. 991, 1001.

alternative benefits to the insured and the beneficiaries as may be found to be reasonable and practicable" should be construed as limited to subjects like those described by the particular words "maturity at certain ages", "refund of premiums, cash, loan, paid-up, and extended values", etc., which immediately precede the general clause in the same sentence and all of which describe certain provisions commonly contained in life-insurance contracts. This construction is further supported by the fact that Congress, before passing the Act of October 6, 1917, struck out of the corresponding general clause contained in Section 402 of the bill as originally introduced, a provision authorizing the Director of the Veterans' Bureau to grant from time to time by regulations "rights and privileges not provided for." (See H. Rep. No. 130, 65th Cong., 1st Sess., part 3, p. 12; *Fox* v. *Standard Oil Co.*, 294 U. S. 87, 96; *Lapina* v. *Williams*, 232 U. S. 78, 89; *United States* v. *United Shoe Machinery Co.*, 264 Fed. 138, 174 (E. D. Mo.).)

Manifestly, none of the particular matters described in the provisions in question have any relation to the disability risk to be covered by the insurance contract.

Furthermore, there is not any indication elsewhere in the statutes relating to such insurance that Congress intended to authorize the inclusion of the disabilities described in paragraph 11 (a) of

the policy here in suit. The reasons stated by this Court in the *Miller* case for holding similar provisions invalid as to yearly renewable term insurance apply with equal force to Government life insurance. Indeed, there is even less reason for supposing that Congress intended to authorize these additions to the disability risk covered by the latter than for imputing such intent as to the former.

No premiums were charged for covering total permanent disability in either form of insurance, the rate being limited to that for the mortality hazard alone,[8] except in the case of Government life insurance policies containing provisions for the payment of separate benefits in the event of total disability for a minimum period of time without regard to permanence, in which case an additional premium was charged.[9] Government life insurance differs, however, from yearly renewable term insurance in that it is intended to be self-sustaining if possible. By Section 18 of the Act of December 24, 1919, c. 16, 41 Stat. 376,[10] Congress established the United States Government Life Insurance Fund which was to consist exclusively of premiums on

[8] Section 403 added to the War Risk Insurance Act by the Act of October 6, 1917, c. 105, 40 Stat. 398, 410 (Appendix, *infra*, p. 20.

[9] Section 311 added to the World War Veterans' Act, 1924, by the Act of May 29, 1928, c. 875, sec. 16, 45 Stat. 964, 970–971, as amended July 3, 1930, c. 849, sec. 25, 46 Stat. 991, 1002 (Appendix, *infra*, pp. 21–28.)

[10] Appendix, *infra*, p. 19.

such insurance and to be invested and administered separate and apart from funds derived from yearly renewable term insurance.[11]

It was further provided that this fund should be available to meet all liabilities on account of Government life insurance (except "the expenses of administration and the excess mortality and disability cost resulting from the hazards of war", which were borne by the United States),[12] and, to that end, the Bureau was authorized "to set aside out of the fund so collected such reserve funds as may be required, under accepted actuarial principles, to meet all liabilities under such insurance."[13] It was no doubt anticipated that a large part of such liabilities would consist of permanent total disability benefit payments, especially since the con-

[11] Prior to this Act no provision was made for the deposit of Government life insurance premiums in any fund separate from those derived from yearly renewable term insurance, which were required to be deposited in the military and naval insurance appropriation fund. (Sec. 20, added to the War Risk Insurance Act by the Act of October 6, 1917, c. 105, 40 Stat. 398, 400 (Appendix, *infra*, p. 18).)

[12] Section 403, added to the War Risk Insurance Act by the Act of October 6, 1917, c. 105, 40 Stat. 398, 410 (Appendix, *infra*, p. 20). Section 302 of the World War Veterans' Act (June 7, 1924, c. 320, 43 Stat. 607, 625) added liability for benefits payable for total permanent disability or death "traceable to the extra hazard of the military or naval service" to the costs to be borne by the Government.

[13] Substantially similar provisions are contained in the statute today. U. S. C., Title 38, Sec. 443.

tract provided no maximum age limit for those entitled to them. Obviously, the efforts of the Bureau to administer the fund so as to "meet all liabilities" might be seriously hampered by the assumption of any more gratuitous risks. The purpose of Congress not to authorize such additions without an increase of premium is shown by the fact that it required an additional premium for the added risk assumed under policies containing provisions for the payment of separate benefits in the event of total disability for a minimum period.[14]

Thus it is evident that the interpretation by the court below of the general clauses in the statute invoked by it conflicts not only with a well settled rule of construction but also with the manifest purpose of Congress to avoid, if possible, all costs to the Government in connection with Government life insurance except those specified in the statute.[15]

However, even were it assumed that the Director of the Veterans Bureau (or his successor, the Administrator of Veterans' Affairs) was authorized to make the total permanent disability provisions in Government life insurance contracts conform to those usually found in commercial insurance policies regardless of the burden thus undertaken, there would, nevertheless, seem to be no justification for including a provision making the loss of

[14] Note 9, *supra*, p. 13.
[15] Note 12, *supra*, p. 14.

hearing of both ears a conclusively presumptive total permanent disability. Such a clause is not only not in general use, but no policy containing it has come to our attention. See Amrhein's *The Liberalization of the Life Insurance Contract,* 1933, pp. 282–283, 361–363 (pars. (8) and (16)); and compare *The Handy Guide to Standard and Special Contracts,* 1934 (The Spectator Company).

In short, it is submitted that the provision in paragraph 11 (a) of respondent's policy which presumes total permanent disability from the loss of hearing of both ears regardless of the fact, is without authority in law and invalid, and the court below erred in holding otherwise. Furthermore, the trial court's charge to the jury that they might allow a recovery under that provision was prejudicial to the defendant since it is to be presumed that the verdict was found under it in the absence of anything in the record to the contrary. *Yazoo & M. V. R. R. Co.* v. *Mullins,* 249 U. S. 531, 533; *Fillippon* v. *Albion Vein Slate Co.,* 250 U. S. 76, 82.

Even if the trial court's charge had not been prejudicial, it appears by the undisputed facts set out in the Statement, *supra,* pp. 4–5, that the evidence would not have justified a verdict for the plaintiff founded upon total permanent disability *in fact.* Cf. *Miller* v. *United States,* 294 U. S. 435, 440–442, *supra.*

CONCLUSION

For the reasons stated it is respectfully submitted that the judgment of the Circuit Court of Appeals should be reversed.

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DECEMBER 1935.

APPENDIX

STATUTES AND REGULATIONS INVOLVED

Pertinent sections of the War Risk Insurance Act, as amended, provide in part as follows:

> SEC. 13. That the director, subject to the general direction of the Secretary of the Treasury, shall administer, execute, and enforce the provisions of this Act, and for that purpose have full power and authority to make rules and regulations, not inconsistent with the provisions of this Act, necessary or appropriate to carry out its purposes, * * * [October 6, 1917, c. 105, sec. 2, 40 Stat. 398, 399.]
>
> SEC. 20. That there is hereby appropriated, from any money in the Treasury not otherwise appropriated, the sum of $23,000,000, to be known as the military and naval insurance appropriation. All premiums that may be collected for the insurance provided by the provisions of Article IV shall be deposited and covered into the Treasury to the credit of this appropriation.
>
> Such sum, including all premium payments, is hereby made available for the payment of the liabilities of the United States incurred under contracts of insurance made under the provisions of Article IV. Payments from this appropriation shall be made upon and in accordance with awards by the director. [October 6, 1917, c. 105, sec. 2, 40 Stat. 398, 400.]

SEC. 18. That all premiums paid on account of insurance converted under the provisions of Article IV of the War Risk Insurance Act shall be deposited and covered into the Treasury to the credit of the United States Government life insurance fund and shall be available for the payment of losses, dividends, refunds, and other benefits provided for under such insurance. Payments from this fund shall be made upon and in accordance with awards by the director.

The Bureau of War Risk Insurance is hereby authorized to set aside out of the fund so collected such reserve funds as may be required, under accepted actuarial principles, to meet all liabilities under such insurance; and the Secretary of the Treasury is hereby authorized to invest and reinvest the said United States Government life insurance fund, or any part thereof, in interest-bearing obligations of the United States and to sell the obligations for the purposes of the said fund. [December 24, 1919, c. 16, 41 Stat. 371, 376.]

SEC. 400. That in order to give to every commissioned officer and enlisted man and to every member of the Army Nurse Corps (female) and of the Navy Nurse Corps (female) when employed in active service under the War Department or Navy Department greater protection for themselves and their dependents than is provided in Article III, the United States, upon application to the bureau and without medical examination, shall grant insurance against the death or total permanent disability of any such person in any multiple of $500, and not less than $1,000 or more than $10,000, upon the payment of the premiums as hereinafter provided. [October 6, 1917, c. 105, sec. 2, 40 Stat. 398, 409.]

SEC. 402. That the director, subject to the general direction of the Secretary of the Treasury, shall promptly determine upon and publish the full and exact terms and conditions of such contract of insurance. * * * Provisions for maturity at certain ages, for continuous installments during the life of the insured or beneficiaries, or both, for cash, loan, paid-up and extended values, dividends from gains and savings, and such other provisions for the protection and advantage of and for alternative benefits to the insured and the beneficiaries as may be found to be reasonable and practicable, may be provided for in the contract of insurance, or from time to time by regulations. * * * [October 6, 1917, c. 105, sec. 2, 40 Stat. 398, 409.]

SEC. 403. That the United States shall bear the expenses of administration and the excess mortality and disability cost resulting from the hazards of war. The premium rates shall be the net rates based upon the American Experience Table of Mortality and interest at three and one-half per centum per annum. [October 6, 1917, c. 105, sec. 2, 40 Stat. 398, 410.]

SEC. 404. That during the period of war and thereafter until converted the insurance shall be term insurance for successive terms of one year each. Not later than five years after the date of the termination of the war as declared by proclamation of the President of the United States, the term insurance shall be converted, without medical examination, into such form or forms of insurance as may be prescribed by regulations and as the insured may request. Regulations shall provide for the right to convert into ordinary life, twenty payment life, endowment maturing at age sixty-two and

into other usual forms of insurance and shall prescribe the time and method of payment of the premiums thereon, but payments of premiums in advance shall not be required for periods of more than one month each and may be deducted from the pay or deposit of the insured or be otherwise made at his election. [October 6, 1917, c. 105, sec. 2, 40 Stat. 398, 410.]

Section 311 of the World War Veterans' Act, 1924, as amended, provides as follows:

SEC. 311. The director is hereby authorized and directed to include in United States Government life (converted) insurance policies provision whereby an insured, who is totally disabled as a result of disease or injury for a period of four consecutive months or more before attaining the age of sixty-five years and before default in payment of any premium, shall be paid disability benefits at the rate of $5.75 monthly for each $1,000 of converted insurance in force when total disability benefits become payable. The amount of such monthly payment under the provisions of this section shall not be reduced because of payment of permanent and total disability benefits under the United States Government life (converted) insurance policy. Such payments shall be effective as of the first day of the fifth consecutive month, and shall be made monthly during the continuance of such total disability. Such payments shall be concurrent with or independent of permanent total disability benefits under the United States Government life (converted) insurance policy. In addition to the monthly disability benefits the payment of premiums on the United States Government life (converted) insur-

ance policy and for the total disability benefits authorized by this section shall be waived during the continuance of such total disability. Regulations shall provide for reexaminations of beneficiaries under this section; and, in the event that it is found that an insured is no longer totally disabled, the waiver of premiums and payment of benefits shall cease and the United States Government life (converted) insurance policy, including the total disability provision authorized by this section, may be continued by payment of premiums as provided in said policy and the total disability provision authorized by this section. Neither the dividends nor the amount payable in any settlement under any United States Government life (converted) insurance policy shall be decreased because of disability benefits granted under the provisions of this section. The payment of total disability benefits shall not prejudice the right of any insured, who is totally and permanently disabled, to total permanent disability benefits under his United States Government life (converted) insurance policy: *Provided, That the provision authorized by this section shall not be included in any United States Government life (converted) insurance policy heretofore or hereafter issued, except upon application, payment of premium by the insured,* and proof of good health satisfactory to the director. The benefit granted under this section shall be on the basis of multiples of $500, and not less than $1,000 or more than the amount of United States Government life (converted) insurance in force at time of application. *The director shall determine the amount of the monthly premium to cover the benefits of this section,* and in order to continue such benefits in force the monthly premiums shall

be payable until the insured attains the age of sixty-five years or until the prior maturity of the policy. In all other respects such monthly premium shall be payable under the same terms and conditions as the regular monthly premium on the United States Government life (converted) insurance policy. [May 29, 1928, c. 875, sec. 16, 45 Stat. 964, 970; July 3, 1930, c. 849, sec. 25, 46 Stat. 991, 1002 (U. S. C., Title 38, sec. 512 b).] (Italics ours.)

VETERANS' ADMINISTRATION REGULATIONS

DEFINITION OF TOTAL PERMANENT DISABILITY

3121. Total permanent disability as referred to in a United States Government life-insurance policy, is any impairment of mind or body which continuously renders it impossible for the disabled person to follow any substantially gainful occupation and which is founded upon conditions which render it reasonably certain that the total disability will continue throughout the life of the disabled person. The total permanent disability benefits may relate back to a date not exceeding six months prior to receipt of due proof of total permanent disability and any premium paid after receipt of due proof of total permanent disability and within the six months shall be refunded without interest.

STATUTORY TOTAL PERMANENT DISABILITIES

3122. Without prejudice to any other cause of disability, the permanent loss of the use of both feet, or both hands, or both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one

eye, or the loss of hearing of both ears, or the organic loss of speech, or becoming permanently helpless or permanently bedridden, shall be deemed to be total permanent disability under United States Government life insurance; and monthly installments of insurance for any of these specifically enumerated causes of total permanent disability shall accrue from the date of such total permanent disability, and any premiums paid after the date of such total permanent disability shall be refunded without interest. [Promulgated March 1930.]

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